
SENATE BILL 5674

State of Washington 54th Legislature 1995 Regular Session

By Senators Hargrove, Owen, Palmer, Rasmussen and Winsley

Read first time 01/31/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to armed crimes; amending RCW 9.41.040, 9.41.047,
2 9.41.050, 9.41.098, 9.41.110, 9.41.135, 9.41.170, and 9.41.800;
3 reenacting and amending RCW 9.41.010 and 9.41.070; repealing RCW
4 9.41.240; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9.41.010 and 1994 sp.s. c 7 s 401 and 1994 c 121 s 1
7 are each reenacted and amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Firearm" means a weapon or device from which a projectile may
11 be fired by ((an explosive)) a propellant such as gunpowder.

12 (2) "Pistol" means any firearm with a barrel less than twelve
13 inches in length measured from muzzle to breech when closed, or is
14 designed to be held and fired by the use of a single hand.

15 (3) "Rifle" means a weapon designed or redesigned, made or remade,
16 and intended to be fired from the shoulder and designed or redesigned,
17 made or remade, and intended to use the energy of the ((explosive))
18 propellant in a fixed metallic cartridge to fire ((only)) a ((single))
19 projectile through a rifled bore for each single pull of the trigger.

1 (4) "Short-barreled rifle" means a rifle having one or more barrels
2 less than sixteen inches in length measured from muzzle to breech when
3 closed and any weapon made from a rifle by any means of modification if
4 such modified weapon has an overall length of less than twenty-six
5 inches.

6 (5) "Shotgun" means a weapon with one or more barrels, designed or
7 redesigned, made or remade, and intended to be fired from the shoulder
8 and designed or redesigned, made or remade, and intended to use the
9 energy of the ((~~explosive~~)) propellant in a fixed shotgun shell to fire
10 through a smooth bore either a number of ball shot or a single
11 projectile for each single pull of the trigger.

12 (6) "Short-barreled shotgun" means a shotgun having one or more
13 barrels less than eighteen inches in length measured from muzzle to
14 breech when closed and any weapon made from a shotgun by any means of
15 modification if such modified weapon has an overall length of less than
16 twenty-six inches.

17 (7) "Machine gun" means any firearm known as a machine gun,
18 ((~~mechanical~~)) automatic rifle, submachine gun, or any other mechanism
19 or instrument not requiring that the trigger be pressed for each shot
20 and having a ((~~reservoir-clip~~)) magazine, disc, drum, belt, or other
21 separable mechanical device for storing, carrying, or supplying
22 ammunition which can be loaded into the firearm, mechanism, or
23 instrument, and fired therefrom at the rate of five or more shots per
24 second.

25 (8) "Antique firearm" means a firearm or replica of a firearm not
26 designed or redesigned for using rim fire or conventional center fire
27 ignition with fixed ammunition and manufactured in or before 1898,
28 including any matchlock, flintlock, percussion cap, or similar type of
29 ignition system and also any firearm using fixed ammunition
30 manufactured in or before 1898, for which ammunition is no longer
31 manufactured in the United States ((~~and~~)) or is not readily available
32 in the ordinary channels of commercial trade.

33 (9) "Loaded" means:

34 (a) There is a cartridge in the chamber of the firearm;

35 (b) ((~~Bullets~~)) Cartridges are in a ((~~clip~~)) magazine that is
36 locked in place in the firearm;

37 (c) There is a cartridge in the cylinder of the firearm, if the
38 firearm is a revolver; ((~~or~~))

1 (d) There is a cartridge in the tube(~~()~~) or magazine(~~() or other~~
2 ~~compartment~~) of the firearm ; or

3 (e) There is a ball in the barrel and the firearm is capped or
4 primed if the firearm is a muzzle loader.

5 (10) "Dealer" means a person engaged in the business of selling
6 firearms (~~or ammunition~~) at wholesale or retail who (~~has, or~~) is
7 required to have(~~()~~) a federal firearms license under 18 U.S.C. Sec.
8 923(a). A person who does not have, and is not required to have, a
9 federal firearms license under 18 U.S.C. Sec. 923(a)(~~()~~) is not a
10 dealer if that person makes only occasional sales, exchanges, or
11 purchases of firearms for the enhancement of a personal collection or
12 for a hobby, or sells all or part of his or her personal collection of
13 firearms.

14 (11) "Crime of violence" means:

15 (a) Any of the following felonies, as now existing or hereafter
16 amended: Any felony defined under any law as a class A felony or an
17 attempt to commit a class A felony, criminal solicitation of or
18 criminal conspiracy to commit a class A felony, manslaughter in the
19 first degree, manslaughter in the second degree, indecent liberties if
20 committed by forcible compulsion, rape in the second degree, kidnapping
21 in the second degree, arson in the second degree, assault in the second
22 degree, assault of a child in the second degree, extortion in the first
23 degree, burglary in the second degree, residential burglary, and
24 robbery in the second degree;

25 (b) Any conviction for a felony offense in effect at any time prior
26 to July 1, 1976, which is comparable to a felony classified as a crime
27 of violence in (a) of this subsection; and

28 (c) Any federal or out-of-state conviction for an offense
29 comparable to a felony classified as a crime of violence under (a) or
30 (b) of this subsection.

31 (12) "Serious offense" means any (~~of the following felonies or a~~
32 ~~felony attempt to commit any of the following felonies, as now existing~~
33 ~~or hereafter amended:~~

34 ~~(a) Any crime of violence;~~

35 ~~(b) Child molestation in the second degree;~~

36 ~~(c) Controlled substance homicide;~~

37 ~~(d) Incest when committed against a child under age fourteen;~~

38 ~~(e) Indecent liberties;~~

39 ~~(f) Leading organized crime;~~

1 ~~(g) Promoting prostitution in the first degree;~~
2 ~~(h) Rape in the third degree;~~
3 ~~(i) Sexual exploitation;~~
4 ~~(j) Vehicular assault;~~
5 ~~(k) Vehicular homicide, when proximately caused by the driving of~~
6 ~~any vehicle by any person while under the influence of intoxicating~~
7 ~~liquor or any drug as defined by RCW 46.61.502, or by the operation of~~
8 ~~any vehicle in a reckless manner;~~

9 ~~(l) Any other class B felony offense with a finding of sexual~~
10 ~~motivation, as "sexual motivation" is defined under RCW 9.94A.030;~~

11 ~~(m) Any other felony with a deadly weapon verdict under RCW~~
12 ~~9.94A.125; or~~

13 ~~(n) Any felony offense in effect at any time prior to July 1, 1994,~~
14 ~~that is comparable to a serious offense, or any federal or out-of-state~~
15 ~~conviction for an offense that under the laws of this state would be a~~
16 ~~felony classified as a serious offense)) crime of violence or a felony~~
17 ~~in which a firearm was used or displayed or the person was illegally~~
18 ~~armed with a firearm.~~

19 (13) "Sell" refers to the actual approval of the delivery of a
20 firearm in consideration of payment or promise of payment of a certain
21 price in money.

22 **Sec. 2.** RCW 9.41.040 and 1994 sp.s. c 7 s 402 are each amended to
23 read as follows:

24 (1) A person, whether an adult or juvenile, is guilty of the crime
25 of unlawful possession of a firearm if the person owns, has in his or
26 her possession, or has in his or her control any firearm:

27 (a) After having previously been convicted or, as a juvenile,
28 adjudicated in this state or elsewhere of a (~~serious offense, a~~
29 ~~domestic violence offense enumerated in RCW 10.99.020(2), a harassment~~
30 ~~offense enumerated in RCW 9A.46.060, or of)) crime of violence or a
31 felony in which a firearm was used or displayed, except as otherwise
32 provided in subsection (3) ((~~or (4)~~)) of this section;~~

33 (b) After having previously been convicted of any felony violation
34 of the uniform controlled substances act, chapter 69.50 RCW, or
35 equivalent statutes of another jurisdiction, except as otherwise
36 provided in subsection (3) ((~~or (4)~~)) of this section;

37 (c) (~~After having previously been convicted on three occasions~~
38 ~~within five years of driving a motor vehicle or operating a vessel~~

1 while under the influence of intoxicating liquor or any drug, unless
2 his or her right to possess a firearm has been restored as provided in
3 RCW 9.41.047;

4 (e)) If the person is under eighteen years of age, except as
5 provided in RCW 9.41.042.

6 (2) Unlawful possession of a firearm is a class ((C)) B felony,
7 punishable under chapter 9A.20 RCW.

8 (3) As used in this section, a person has been "convicted" at such
9 time as a plea of guilty has been accepted or a verdict of guilty has
10 been filed, notwithstanding the pendency of any future proceedings
11 including but not limited to sentencing or disposition, post-trial or
12 post-factfinding motions, and appeals. A person shall not be precluded
13 from possession of a firearm if the conviction has been the subject of
14 a pardon, annulment, certificate of rehabilitation, or other equivalent
15 procedure based on a finding of the rehabilitation of the person
16 convicted or the conviction or disposition has been the subject of a
17 pardon, annulment, or other equivalent procedure based on a finding of
18 innocence.

19 (4) (~~Notwithstanding subsection (1) of this section, a person~~
20 ~~convicted of an offense other than murder, manslaughter, robbery, rape,~~
21 ~~indecent liberties, arson, assault, kidnapping, extortion, burglary, or~~
22 ~~violations with respect to controlled substances under RCW 69.50.401(a)~~
23 ~~and 69.50.410, who received a probationary sentence under RCW 9.95.200,~~
24 ~~and who received a dismissal of the charge under RCW 9.95.240, shall~~
25 ~~not be precluded from possession of a firearm as a result of the~~
26 ~~conviction.~~

27 (6)) (a) A person who has been committed by court order for
28 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,
29 or equivalent statutes of another jurisdiction, may not possess, in any
30 manner, a firearm as defined in RCW 9.41.010.

31 (b) At the time of commitment, the court shall specifically state
32 to the person under (a) of this subsection and give the person notice
33 in writing that the person is barred from possession of firearms.

34 ((~~c) The secretary of social and health services shall develop~~
35 ~~appropriate rules to create an approval process under this subsection.~~
36 ~~The rules must provide for)) The immediate restoration of the right to
37 possess a firearm shall be established upon a showing in a superior
38 court ((of competent jurisdiction)) that a person no longer is required
39 to participate in an inpatient or outpatient treatment program, and is~~

1 no longer required to take medication to treat any condition related to
2 the commitment. Unlawful possession of a firearm under this subsection
3 shall be punished as a class C felony under chapter 9A.20 RCW.

4 (5) In addition to any other penalty provided for by law, if a
5 person under the age of eighteen years is found by a court to have
6 possessed a firearm in a vehicle in violation of subsection (1) of this
7 section or to have committed an offense while armed with a firearm
8 during which offense a motor vehicle served an integral function, the
9 court shall notify the department of licensing within twenty-four hours
10 and the person's privilege to drive shall be revoked under RCW
11 46.20.265.

12 **Sec. 3.** RCW 9.41.047 and 1994 sp.s. c 7 s 404 are each amended to
13 read as follows:

14 (1)((~~a~~)) At the time a person is convicted of an offense making
15 the person ineligible to possess a firearm, or at the time a person is
16 committed by court order under RCW 71.05.320, 71.34.090, or chapter
17 10.77 RCW for mental health treatment, the convicting or committing
18 court shall notify the person, orally and in writing, that the person
19 may not possess a firearm unless his or her right to do so is restored
20 by a superior court ((~~of record~~)).

21 The convicting or committing court also shall forward a copy of the
22 person's driver's license or identicard, or comparable information, to
23 the department of licensing, along with the date of conviction or
24 commitment.

25 (2) Upon receipt of the information provided for by subsection (1)
26 of this section, the department of licensing shall determine if the
27 convicted or committed person has a concealed pistol license. If the
28 person does have a concealed pistol license, the department of
29 licensing shall immediately notify the license-issuing authority.

30 (~~(3) ((A person who is prohibited from possessing a firearm by
31 reason of having previously been convicted on three occasions of
32 driving a motor vehicle or operating a vessel while under the influence
33 of intoxicating liquor or any drug may, after five continuous years
34 without further conviction for any alcohol-related offense, petition a
35 court of record to have his or her right to possess a firearm restored.~~

36 (~~4~~))(a) A person who is prohibited from possessing a firearm, by
37 reason of having been ((~~either~~:

1 ~~(ii))~~ involuntarily committed for mental health treatment under
2 RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of
3 another jurisdiction, may, upon discharge, petition a court of record
4 to have his or her right to possess a firearm restored.

5 (b) At a minimum, a petition under this subsection ~~((4))~~ (3)
6 shall include the following:

7 (i) The fact, date, and place of commitment;

8 (ii) The place of treatment;

9 (iii) The fact and date of release from commitment;

10 (iv) A certified copy of the most recent order, if one exists, of
11 commitment, with the findings of fact and conclusions of law; and

12 (v) A statement by the ~~((person))~~ person's doctor of record that he
13 or she is no longer required to participate in an inpatient or
14 outpatient treatment program, is no longer required to take medication
15 to treat any condition related to the commitment~~((, and does not
16 present a substantial danger to himself or herself, to others, or to
17 the public safety))~~.

18 (c) A person petitioning the court under this subsection ~~((4))~~
19 (3) shall bear the burden of proving by a preponderance of the evidence
20 that the circumstances resulting in the commitment no longer exist and
21 are not reasonably likely to recur.

22 **Sec. 4.** RCW 9.41.050 and 1994 sp.s. c 7 s 405 are each amended to
23 read as follows:

24 (1) Except in the person's place of abode or fixed place of
25 business, a person shall not carry a pistol concealed on his or her
26 person without a license to carry a concealed pistol.

27 (2) A person shall not carry or place a loaded pistol in any
28 vehicle unless the person has a license to carry a concealed pistol
29 and: (a) The pistol is on the licensee's person, (b) the licensee is
30 within the vehicle at all times that the pistol is there, or (c) the
31 licensee is away from the vehicle and the pistol is locked within the
32 vehicle and concealed from view from outside the vehicle.

33 (3) A person at least eighteen years of age who is in possession of
34 an unloaded pistol shall not leave the unloaded pistol in a vehicle
35 unless the unloaded pistol is locked within the unoccupied vehicle and
36 concealed from view from outside the vehicle.

1 (4) (~~Except as otherwise provided in this chapter, no person may~~
2 ~~carry a firearm unless it is unloaded and enclosed in an opaque case or~~
3 ~~secure wrapper or the person is:~~

4 ~~(a) Licensed under RCW 9.41.070 to carry a concealed pistol;~~

5 ~~(b) In attendance at a hunter's safety course or a firearms safety~~
6 ~~course;~~

7 ~~(c) Engaging in practice in the use of a firearm or target shooting~~
8 ~~at an established range authorized by the governing body of the~~
9 ~~jurisdiction in which such range is located or any other area where the~~
10 ~~discharge of a firearm is not prohibited;~~

11 ~~(d) Engaging in an organized competition involving the use of a~~
12 ~~firearm, or participating in or practicing for a performance by an~~
13 ~~organized group that uses firearms as a part of the performance;~~

14 ~~(e) Hunting or trapping under a valid license issued to the person~~
15 ~~under Title 77 RCW;~~

16 ~~(f) In an area where the discharge of a firearm is permitted, and~~
17 ~~is not trespassing;~~

18 ~~(g) Traveling with any unloaded firearm in the person's possession~~
19 ~~to or from any activity described in (b), (c), (d), (e), or (f) of this~~
20 ~~subsection, except as provided in (h) of this subsection;~~

21 ~~(h) Traveling in a motor vehicle with a firearm, other than a~~
22 ~~pistol, that is unloaded and locked in the trunk or other compartment~~
23 ~~of the vehicle, secured in a gun rack, or otherwise secured in place in~~
24 ~~a vehicle;~~

25 ~~(i) On real property under the control of the person or a relative~~
26 ~~of the person;~~

27 ~~(j) At his or her residence;~~

28 ~~(k) Is a member of the armed forces of the United States, national~~
29 ~~guard, or organized reserves, when on duty;~~

30 ~~(l) Is a law enforcement officer; or~~

31 ~~(m) Carrying a firearm from or to a vehicle for the purpose of~~
32 ~~taking or removing the firearm to or from a place of business for~~
33 ~~repair.~~

34 ~~(5))~~ Nothing in this section permits the possession of firearms
35 illegal to possess under state or federal law.

36 ~~((6) Any city, town, or county may enact an ordinance to exempt~~
37 ~~itself from the prohibition of subsection (4) of this section.))~~

1 **Sec. 5.** RCW 9.41.070 and 1994 sp.s. c 7 s 407 and 1994 c 190 s 2
2 are each reenacted and amended to read as follows:

3 (1) The judge of a court of record, the chief of police of a
4 municipality, or the sheriff of a county, shall within thirty days
5 after the filing of an application of any person issue a license to
6 such person to carry a pistol concealed on his or her person within
7 this state for four years from date of issue, for the purposes of
8 protection or while engaged in business, sport, or while traveling.
9 However, if the applicant does not have a valid permanent Washington
10 driver's license or Washington state identification card or has not
11 been a resident of the state for the previous consecutive ninety days,
12 the issuing authority shall have up to sixty days after the filing of
13 the application to issue a license. The issuing authority shall not
14 refuse to accept completed applications for concealed pistol licenses
15 during regular business hours.

16 The applicant's (~~constitutional~~) right to (~~bear arms~~) obtain a
17 concealed pistol license shall not be denied, unless he or she:

18 (a) Is ineligible to possess a firearm under the provisions of RCW
19 9.41.040;

20 (b) Is under twenty-one years of age;

21 (c) Is subject to a court order or injunction regarding firearms
22 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050,
23 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or
24 26.50.070;

25 (d) Is free on bond or personal recognizance pending trial, appeal,
26 or sentencing for a (~~serious offense~~) crime of violence;

27 (e) Has an outstanding warrant for his or her arrest from any court
28 of competent jurisdiction for a felony or misdemeanor;

29 (f) Has been ordered to forfeit a firearm under RCW
30 9.41.098(1)(~~d~~) (e) within one year before filing an application to
31 carry a pistol concealed on his or her person; or

32 (g)(i) Has been convicted of any crime against a child or other
33 person listed in RCW 43.43.830(5).

34 (ii) Except as provided in (g)(iii) of this subsection, any person
35 who becomes ineligible for a concealed pistol license as a result of a
36 conviction for a crime listed in (g)(i) of this subsection and then
37 successfully completes all terms of his or her sentence, as evidenced
38 by a certificate of discharge issued under RCW 9.94A.220 in the case of
39 a sentence under chapter 9.94A RCW, and has not again been convicted of

1 any crime and is not under indictment for any crime, may, one year or
2 longer after such successful sentence completion, petition a court of
3 record for a declaration that the person is no longer ineligible for a
4 concealed pistol license under (g)(i) of this subsection.

5 (iii) No person convicted of a (~~serious offense~~) crime of
6 violence as defined in RCW 9.41.010 may have his or her right to
7 possess firearms restored, unless the person has been granted relief
8 from disabilities by the secretary of the treasury under 18 U.S.C. Sec.
9 925(c), or RCW 9.41.040 (3) or (4) applies.

10 (2) The issuing authority shall check with the national crime
11 information center, the Washington state patrol electronic data base,
12 the department of social and health services electronic data base, and
13 with other agencies or resources as appropriate, to determine whether
14 the applicant is ineligible under RCW 9.41.040 to possess a pistol and
15 therefore ineligible for a concealed pistol license. This subsection
16 applies (~~whether~~) when the applicant is applying for a new concealed
17 pistol license (~~or to renew a concealed pistol license~~).

18 (3) Any person whose firearms rights have been restricted and who
19 has been granted relief from disabilities by the secretary of the
20 treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C.
21 Sec. 921(a)(20)(A) shall have his or her right to acquire, receive,
22 transfer, ship, transport, carry, and possess firearms in accordance
23 with Washington state law restored except as otherwise prohibited by
24 this chapter.

25 (4) The license application shall be in triplicate, in form to be
26 prescribed by the department of licensing, and shall bear the full
27 name, street address, date and place of birth, race, gender,
28 description, fingerprints, and signature of the licensee, and the
29 licensee's driver's license number or state identification card number
30 if used for identification in applying for the license. A signed
31 application for a concealed pistol license shall constitute a waiver of
32 confidentiality and written request that the department of social and
33 health services, mental health institutions, and other health care
34 facilities release information relevant to the applicant's eligibility
35 for a concealed pistol license to an inquiring court or law enforcement
36 agency.

37 The license application shall contain a warning substantially as
38 follows:

1 CAUTION: Although state and local laws do not differ, federal
2 law and state law on the possession of firearms differ. If you
3 are prohibited by federal law from possessing a firearm, you
4 may be prosecuted in federal court. A state license is not a
5 defense to a federal prosecution.

6 The license application shall contain a description of the major
7 differences between state and federal law and an explanation of the
8 fact that local laws and ordinances on firearms are preempted by state
9 law and must be consistent with state law. The application shall
10 contain questions about the applicant's eligibility under RCW 9.41.040
11 to possess a pistol, the applicant's place of birth, whether the
12 applicant is a United States citizen, and whether he or she has been
13 required to register with the state or federal government and has an
14 identification or registration number. The applicant shall not be
15 required to produce a birth certificate or other evidence of
16 citizenship. A person who is not a citizen of the United States shall
17 meet the additional requirements of RCW 9.41.170.

18 The original thereof shall be delivered to the licensee, the
19 duplicate shall within seven days be sent by registered mail to the
20 director of licensing and the triplicate shall be preserved for six
21 years, by the authority issuing the license.

22 The department of licensing shall make available to law enforcement
23 and corrections agencies, in an on-line format, all information
24 received under this subsection.

25 (5) The nonrefundable fee for the original (~~issuance of a~~)
26 four-year license shall be fifty dollars. No other state or local
27 branch or unit of government may impose any additional charges on the
28 applicant for the issuance of the license. Additional charges imposed
29 by the federal bureau of investigation for fingerprint-based background
30 checking may be passed on to the applicant.

31 The fee shall be distributed as follows:

32 (a) Fifteen dollars shall be paid to the state general fund;

33 (b) Ten dollars shall be paid to the agency taking the fingerprints
34 of the person licensed;

35 (c) Fifteen dollars shall be paid to the issuing authority for the
36 purpose of enforcing this chapter; and

37 (d) Ten dollars to the firearms range account (~~in the general~~
38 ~~fund~~) established in RCW 77.12.720.

1 (6) The fee for the renewal of such license shall be (~~fifty~~)
2 twenty-five dollars. No other branch or unit of government may impose
3 any additional charges on the applicant for the renewal of the license.

4 The renewal fee shall be distributed as follows:

5 (a) (~~Twenty~~) Ten dollars shall be paid to the state general fund;

6 (b) (~~Twenty~~) Ten dollars shall be paid to the issuing authority
7 for the purpose of enforcing this chapter; and

8 (c) (~~Ten~~) Five dollars to the firearms range account in the
9 general fund.

10 (7) Payment shall be by cash, check, or money order at the option
11 of the applicant. Additional methods of payment may be allowed at the
12 option of the issuing authority.

13 (8) A licensee may renew a license if the licensee applies for
14 renewal within ninety days before or after the expiration date of the
15 license. A license so renewed shall take effect on the expiration date
16 of the prior license. A licensee renewing after the expiration date of
17 the license must pay a late renewal penalty of twenty dollars in
18 addition to the renewal fee specified in subsection (6) of this
19 section. The fee shall be distributed as follows:

20 (a) Ten dollars shall be deposited in the state wildlife fund and
21 used exclusively for the printing and distribution of a pamphlet on the
22 legal limits of the use of firearms, firearms safety, and the
23 preemptive nature of state law. The pamphlet shall be given to each
24 applicant for a license; and

25 (b) Ten dollars shall be paid to the issuing authority for the
26 purpose of enforcing this chapter.

27 (9) Notwithstanding the requirements of subsections (1) through (8)
28 of this section, the chief of police of the municipality or the sheriff
29 of the county of the applicant's residence may issue a temporary
30 emergency license for good cause pending review under subsection (1) of
31 this section.

32 (10) A political subdivision of the state shall not modify the
33 requirements of this section or chapter, nor may a political
34 subdivision ask the applicant to voluntarily submit any information not
35 required by this section.

36 (11) A person who knowingly makes a false statement regarding
37 citizenship or identity on an application for a concealed pistol
38 license is guilty of false swearing under RCW 9A.72.040. In addition
39 to any other penalty provided for by law, the concealed pistol license

1 of a person who knowingly makes a false statement shall be revoked, and
2 the person shall be permanently ineligible for a concealed pistol
3 license.

4 (12) A person may apply for a concealed pistol license:

5 (a) To the municipality or to the county in which the applicant
6 resides if the applicant resides in a municipality;

7 (b) To the county in which the applicant resides if the applicant
8 resides in an unincorporated area; or

9 (c) Anywhere in the state if the applicant is a nonresident.

10 **Sec. 6.** RCW 9.41.098 and 1994 sp.s. c 7 s 414 are each amended to
11 read as follows:

12 (1) The superior courts and the courts of limited jurisdiction of
13 the state may order forfeiture of a firearm which is proven to be:

14 (a) Found concealed on a person not authorized by RCW 9.41.060 or
15 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute
16 defense to forfeiture if the person possessed a valid Washington
17 concealed pistol license within the preceding two years and has not
18 become ineligible for a concealed pistol license in the interim.
19 Before the firearm may be returned, the person must pay the past due
20 renewal fee and the current renewal fee;

21 (b) Commercially sold to any person without an application as
22 required by RCW 9.41.090;

23 (c) Found in the possession of a person prohibited from possessing
24 the firearm under RCW 9.41.040;

25 (d) Found in the possession or under the control of a person at the
26 time the person committed or was arrested for committing a (~~serious~~
27 ~~offense~~) crime of violence or a crime in which a firearm was used or
28 displayed or a felony violation of the Uniform Controlled Substances
29 Act, chapter 69.50 RCW;

30 (e) Found concealed on a person who is in any place in which a
31 concealed pistol license is required, and who is under the influence of
32 any drug or under the influence of intoxicating liquor, as defined in
33 chapter 46.61 RCW;

34 (f) Found in the possession of a person free on bail or personal
35 recognizance pending trial, appeal, or sentencing for a (~~serious~~
36 ~~offense~~) crime of violence or a crime in which a firearm was used or
37 displayed, except that violations of Title 77 RCW shall not result in
38 forfeiture under this section;

1 (g) Found in the possession of a person found to have been mentally
2 incompetent while in possession of a firearm when apprehended or who is
3 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

4 (h) Known to have been used or displayed by a person in the
5 violation of a proper written order of a court of general jurisdiction;
6 or

7 (i) Known to have been used in the commission of a (~~serious~~
8 ~~offense~~) crime of violence or a crime in which a firearm was used or
9 displayed or a felony violation of the Uniform Controlled Substances
10 Act, chapter 69.50 RCW.

11 (2) Upon order of forfeiture, the court in its discretion may order
12 destruction of any forfeited firearm. A court may temporarily retain
13 forfeited firearms needed for evidence.

14 (a) Except as provided in (b), (c), and (d) of this subsection,
15 firearms that are: (i) Judicially forfeited and no longer needed for
16 evidence; or (ii) forfeited due to a failure to make a claim under RCW
17 63.32.010 or 63.40.010; may be disposed of in any manner determined by
18 the local legislative authority. Any proceeds of an auction or trade
19 may be retained by the legislative authority. This subsection (2)(a)
20 applies only to firearms that come into the possession of the law
21 enforcement agency after June 30, 1993, and applies only if the law
22 enforcement agency has complied with (b) of this subsection.

23 By midnight, June 30, 1993, every law enforcement agency shall
24 prepare an inventory, under oath, of every firearm that has been
25 judicially forfeited, has been seized and may be subject to judicial
26 forfeiture, or that has been, or may be, forfeited due to a failure to
27 make a claim under RCW 63.32.010 or 63.40.010.

28 (b) Except as provided in (c) of this subsection, of the
29 inventoried firearms a law enforcement agency shall destroy illegal
30 firearms, may retain a maximum of ten percent of legal forfeited
31 firearms for agency use, and shall either:

32 (i) Comply with the provisions for the auction of firearms in RCW
33 9.41.098 that were in effect immediately preceding May 7, 1993; or

34 (ii) Trade, auction, or arrange for the auction of, rifles and
35 shotguns. In addition, the law enforcement agency shall either trade,
36 auction, or arrange for the auction of, short firearms, or shall pay a
37 fee of (~~twenty-five~~) fifty dollars to the state treasurer for every
38 short firearm neither auctioned nor traded, to a maximum of fifty
39 thousand dollars. The fees shall be accompanied by an inventory, under

1 oath, of every short firearm listed in the inventory required by (a) of
2 this subsection, that has been neither traded nor auctioned. The state
3 treasurer shall credit the fees to the firearms range account
4 established in RCW 77.12.720. All trades or auctions of firearms under
5 this subsection shall be to licensed dealers. Proceeds of any auction
6 less costs, including actual costs of storage and sale, shall be
7 forwarded to the firearms range account established in RCW 77.12.720.

8 (c) Antique firearms and firearms recognized as curios, relics, and
9 firearms of particular historical significance by the United States
10 treasury department bureau of alcohol, tobacco, and firearms are exempt
11 from destruction and shall be disposed of by auction or trade to
12 licensed dealers.

13 (d) Firearms in the possession of the Washington state patrol on or
14 after May 7, 1993, that are judicially forfeited and no longer needed
15 for evidence, or forfeited due to a failure to make a claim under RCW
16 63.35.020, must be disposed of as follows: (i) Firearms illegal for
17 any person to possess must be destroyed; (ii) the Washington state
18 patrol may retain a maximum of ten percent of legal firearms for agency
19 use; and (iii) all other legal firearms must be auctioned or traded to
20 licensed dealers. The Washington state patrol may retain any proceeds
21 of an auction or trade.

22 (3) The court shall order the firearm returned to the owner upon a
23 showing that there is no probable cause to believe a violation of
24 subsection (1) of this section existed or the firearm was stolen from
25 the owner or the owner neither had knowledge of nor consented to the
26 act or omission involving the firearm which resulted in its forfeiture.

27 (4) A law enforcement officer of the state or of any county or
28 municipality may confiscate a firearm found to be in the possession of
29 a person under circumstances specified in subsection (1) of this
30 section. After confiscation, the firearm shall not be surrendered
31 except: (a) To the prosecuting attorney for use in subsequent legal
32 proceedings; (b) for disposition according to an order of a court
33 having jurisdiction as provided in subsection (1) of this section; or
34 (c) to the owner if the proceedings are dismissed or as directed in
35 subsection (3) of this section.

36 **Sec. 7.** RCW 9.41.110 and 1994 sp.s. c 7 s 416 are each amended to
37 read as follows:

1 (1) No dealer may sell or otherwise transfer, or expose for sale or
2 transfer, or have in his or her possession with intent to sell, or
3 otherwise transfer, any (~~(pistol)~~) firearm without being licensed as
4 provided in this section.

5 ~~(2) ((No dealer may sell or otherwise transfer, or expose for sale
6 or transfer, or have in his or her possession with intent to sell, or
7 otherwise transfer, any firearm other than a pistol without being
8 licensed as provided in this section.~~

9 ~~(3) No dealer may sell or otherwise transfer, or expose for sale
10 or transfer, or have in his or her possession with intent to sell, or
11 otherwise transfer, any ammunition without being licensed as provided
12 in this section.~~

13 ~~(4))~~ The duly constituted licensing authorities of any city, town,
14 or political subdivision of this state shall grant licenses in forms
15 prescribed by the director of licensing effective for not more than one
16 year from the date of issue permitting the licensee to sell firearms
17 within this state subject to the following conditions, for breach of
18 any of which the license shall be forfeited and the licensee subject to
19 punishment as provided in RCW 9.41.010 through 9.41.810. A licensing
20 authority shall forward a copy of each license granted to the
21 department of licensing. The department of licensing shall notify the
22 department of revenue of the name and address of each dealer licensed
23 under this section.

24 ~~((+5))~~ (3)(a) A licensing authority shall, within thirty days
25 after the filing of an application of any person for a dealer's
26 license, determine whether to grant the license. However, if the
27 applicant does not have a valid permanent Washington driver's license
28 or Washington state identification card, or has not been a resident of
29 the state for the previous consecutive ninety days, the licensing
30 authority shall have up to sixty days to determine whether to issue a
31 license. No person shall qualify for a license under this section
32 without first receiving a federal firearms license and undergoing
33 fingerprinting and a background check. In addition, no person
34 ineligible to possess a firearm under RCW 9.41.040 or ineligible for a
35 concealed pistol license under RCW 9.41.070 shall qualify for a
36 dealer's license.

37 (b) A dealer shall require every employee who does not possess a
38 concealed pistol license and who may sell a firearm in the course of
39 his or her employment to undergo fingerprinting and a background check.

1 An employee must be eligible to possess a firearm(~~(, and must not have~~
2 ~~been convicted of a crime that would make the person ineligible for a~~
3 ~~concealed pistol license,~~) before being permitted to sell a firearm.
4 Every employee shall comply with requirements concerning purchase
5 applications and restrictions on delivery of pistols that are
6 applicable to dealers.

7 ~~((+6))~~ (4)(a) Except as otherwise provided in (b) of this
8 subsection, the business shall be carried on only in the building
9 designated in the license. For the purpose of this section,
10 advertising firearms for sale shall not be considered the carrying on
11 of business.

12 (b) A dealer may conduct business temporarily at a location other
13 than the building designated in the license, if the temporary location
14 is within Washington state and is the location of a gun show sponsored
15 by a national, state, or local organization, or an affiliate of any
16 such organization, devoted to the collection, competitive use, or other
17 sporting use of firearms in the community. Nothing in this subsection
18 ~~((+6))~~ (4)(b) authorizes a dealer to conduct business in or from a
19 motorized or towed vehicle.

20 In conducting business temporarily at a location other than the
21 building designated in the license, the dealer shall comply with all
22 other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and
23 9.41.110. The license of a dealer who fails to comply with the
24 requirements of RCW 9.41.080 and 9.41.090 and subsection ~~((+8))~~ (6) of
25 this section while conducting business at a temporary location shall be
26 revoked, and the dealer shall be permanently ineligible for a dealer's
27 license.

28 ~~((+7))~~ (5) The license or a copy thereof, certified by the issuing
29 authority, shall be displayed on the premises in the area where
30 firearms are sold, or at the temporary location, where it can easily be
31 read.

32 ~~((+8))~~ (6)(a) No pistol may be sold: (i) In violation of any
33 provisions of RCW 9.41.010 through 9.41.810; nor (ii) may a pistol be
34 sold under any circumstances unless the purchaser is personally known
35 to the dealer or shall present clear evidence of his or her identity.

36 (b) A dealer who sells or delivers any firearm in violation of RCW
37 9.41.080 is guilty of a class C felony. In addition to any other
38 penalty provided for by law, the dealer is subject to mandatory

1 permanent revocation of his or her dealer's license and permanent
2 ineligibility for a dealer's license.

3 (c) The license fee for (~~(pistols)~~) firearms shall be (~~(one hundred~~
4 ~~twenty-five)~~) seventy-five dollars. (~~(The license fee for firearms~~
5 ~~other than pistols shall be one hundred twenty five dollars. The~~
6 ~~license fee for ammunition shall be one hundred twenty five dollars.~~
7 ~~Any dealer who obtains any license under subsection (1), (2), or (3) of~~
8 ~~this section may also obtain the remaining licenses without payment of~~
9 ~~any fee. The fees received under this section)~~) Twenty-five dollars of
10 this fee shall be deposited in the account under RCW 69.50.520. Fifty
11 dollars of this fee shall be deposited in the firearms range account
12 under RCW 77.12.720.

13 (~~(+9)~~) (7)(a) A true record in triplicate shall be made of every
14 pistol sold, in a book kept for the purpose, the form of which may be
15 prescribed by the director of licensing and shall be personally signed
16 by the purchaser and by the person effecting the sale, each in the
17 presence of the other, and shall contain the date of sale, the caliber,
18 make, model and manufacturer's number of the weapon, the name, address,
19 occupation, and place of birth of the purchaser and a statement signed
20 by the purchaser that he or she is not ineligible under RCW 9.41.040 to
21 possess a firearm.

22 (b) One copy shall within six hours be sent by certified mail to
23 the chief of police of the municipality or the sheriff of the county of
24 which the purchaser is a resident; the duplicate the dealer shall
25 within seven days send to the director of licensing; the triplicate the
26 dealer shall retain for six years.

27 (~~(+10)~~) (8) Subsections (2) through (~~(+9)~~) (7) of this section
28 shall not apply to sales at wholesale.

29 (~~(+11)~~) (9) The dealer's licenses authorized to be issued by this
30 section are general licenses covering all sales by the licensee within
31 the effective period of the licenses. The department shall provide a
32 single application form for dealer's licenses and a single license form
33 which shall indicate the type or types of licenses granted.

34 (~~(+12)~~) (10) Except as provided in RCW 9.41.090, every city, town,
35 and political subdivision of this state is prohibited from requiring
36 the purchaser to secure a permit to purchase or from requiring the
37 dealer to secure an individual permit for each sale.

1 **Sec. 8.** RCW 9.41.135 and 1994 sp.s. c 7 s 418 are each amended to
2 read as follows:

3 (1) At least once every twelve months, the department of licensing
4 shall obtain a list of dealers licensed under 18 U.S.C. Sec. 923(a)
5 with business premises in the state of Washington from the United
6 States bureau of alcohol, tobacco, and firearms. The department of
7 licensing shall verify that all dealers on the list provided by the
8 bureau of alcohol, tobacco, and firearms are licensed and registered as
9 required by RCW 9.41.100.

10 (2) At least once every twelve months, the department of licensing
11 shall obtain from the department of revenue and the department of
12 revenue shall transmit to the department of licensing a list of dealers
13 registered with the department of revenue whose gross proceeds of sales
14 are below the reporting threshold provided in RCW 82.04.300, and a list
15 of dealers whose names and addresses were forwarded to the department
16 of revenue by the department of licensing under RCW 9.41.110, who
17 failed to register with the department of revenue as required by RCW
18 9.41.100.

19 (~~(3) At least once every twelve months, the department of~~
20 ~~licensing shall notify the bureau of alcohol, tobacco, and firearms of~~
21 ~~all dealers licensed under 18 U.S.C. Sec. 923(a) with business premises~~
22 ~~in the state of Washington who have not complied with the licensing or~~
23 ~~registration requirements of RCW 9.41.100, or whose gross proceeds of~~
24 ~~sales are below the reporting threshold provided in RCW 82.04.300. In~~
25 ~~notifying the bureau of alcohol, tobacco, and firearms, the department~~
26 ~~of licensing shall not specify whether a particular dealer has failed~~
27 ~~to comply with licensing requirements, has failed to comply with~~
28 ~~registration requirements, or has gross proceeds of sales below the~~
29 ~~reporting threshold.))~~

30 **Sec. 9.** RCW 9.41.170 and 1994 c 190 s 1 are each amended to read
31 as follows:

32 (1) It is a class C felony for any person who is not a citizen of
33 the United States to carry or possess any firearm, without first having
34 obtained an alien firearm license from the director of licensing.
35 Except as provided in subsection (2) of this section, the director of
36 licensing (~~may~~) shall issue an alien firearm license only upon
37 receiving from the consul domiciled in this state representing the
38 country of the alien, a certified copy of the alien's criminal history

1 in the alien's country indicating the alien is not ineligible under RCW
2 9.41.040 to own, possess, or control a firearm, and the consul's
3 attestation that the alien is a responsible person.

4 (2)(a) Subject to the additional requirements of (b) of this
5 subsection, the director of licensing may issue an alien firearm
6 license without a certified copy of the alien's criminal history or the
7 consul's attestation required by subsection (1) of this section, if the
8 alien has been a legal resident of this state for at least two years
9 and: (i) The alien is from a country without a consul domiciled within
10 this state, or (ii) the consul has failed to provide, within ninety
11 days after a request by the alien, the criminal history or attestation
12 required by subsection (1) of this section.

13 (b) Before issuing an alien firearm license under this subsection
14 (2), the director of licensing shall ask the local law enforcement
15 agency of the jurisdiction in which the alien resides to complete a
16 background check to determine the alien's eligibility under RCW
17 9.41.040 to own, possess, or control a firearm. The law enforcement
18 agency shall complete a background check within thirty days after the
19 request, unless the alien does not have a valid Washington driver's
20 license or Washington state identification card. In the latter case,
21 the law enforcement agency shall complete the background check within
22 sixty days after the request.

23 A signed application for an alien firearm license shall constitute
24 a waiver of confidentiality and written request that the department of
25 social and health services, mental health institutions, and other
26 health care facilities release information relevant to the applicant's
27 eligibility for an alien firearm license to an inquiring law
28 enforcement agency.

29 (3) ~~The ((fee for an alien firearm license shall be twenty five~~
30 ~~dollars, and the))~~ license shall be valid for four years from the date
31 of issue and the fees for issuance shall be the same as for citizens as
32 provided in RCW 9.41.070(5).

33 (4) This section shall not apply to Canadian citizens resident in
34 a province which has an enactment or public policy providing
35 substantially similar privilege to residents of the state of Washington
36 and who are carrying or possessing weapons for the purpose of using
37 them in the hunting of game while such persons are in the act of
38 hunting, or while on a hunting trip, or while such persons are
39 competing in a bona fide trap or skeet shoot or any other organized

1 contest where rifles, pistols, or shotguns are used. Nothing in this
2 section shall be construed to allow aliens to hunt or fish in this
3 state without first having obtained a regular hunting or fishing
4 license.

5 **Sec. 10.** RCW 9.41.800 and 1994 sp.s. c 7 s 430 are each amended to
6 read as follows:

7 (1) Any court when entering an order authorized under RCW
8 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
9 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070
10 shall, upon a showing by clear and convincing evidence, that a party
11 has: Used, displayed, or threatened to use a firearm or other
12 dangerous weapon in a (~~serious offense~~) crime of violence, or
13 previously committed any offense that makes him or her ineligible to
14 possess a firearm under the provisions of RCW 9.41.040:

15 (a) Require the party to surrender any firearm or other dangerous
16 weapon;

17 (b) Require the party to surrender any concealed pistol license
18 issued under RCW 9.41.070;

19 (c) Prohibit the party from obtaining or possessing a firearm or
20 other dangerous weapon;

21 (d) Prohibit the party from obtaining or possessing a concealed
22 pistol license.

23 (2) Any court when entering an order authorized under RCW
24 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
25 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070
26 may, upon a showing by (~~a preponderance of the evidence but not by~~)
27 clear and convincing evidence, that a party has: Used, displayed, or
28 threatened to use a firearm or other dangerous weapon in a (~~serious~~
29 ~~offense~~) crime of violence, or previously committed any offense that
30 makes him or her ineligible to possess a pistol under the provisions of
31 RCW 9.41.040:

32 (a) Require the party to surrender any firearm or other dangerous
33 weapon;

34 (b) Require the party to surrender a concealed pistol license
35 issued under RCW 9.41.070;

36 (c) Prohibit the party from obtaining or possessing a firearm or
37 other dangerous weapon;

1 (d) Prohibit the party from obtaining or possessing a concealed
2 pistol license.

3 (3) The court may order temporary surrender of a firearm or other
4 dangerous weapon without notice to the other party if it finds, on the
5 basis of the moving affidavit or other evidence, that irreparable
6 injury could result if an order is not issued until the time for
7 response has elapsed.

8 (4) In addition to the provisions of subsections (1), (2), and (3)
9 of this section, the court may enter an order requiring a party to
10 comply with the provisions in subsection (1) of this section if it
11 finds that the possession of a firearm or other dangerous weapon by any
12 party presents a serious and imminent threat to public health or
13 safety, or to the health or safety of any individual.

14 (5) The requirements of subsections (1), (2), and (4) of this
15 section may be for a period of time less than the duration of the
16 order.

17 (6) The court may require the party to surrender any firearm or
18 other dangerous weapon in his or her immediate possession or control or
19 subject to his or her immediate possession or control to the sheriff of
20 the county having jurisdiction of the proceeding or to the restrained
21 or enjoined party's counsel or to any person designated by the court.

22 NEW SECTION. **Sec. 11.** RCW 9.41.240 and 1994 sp.s. c 7 s 423, 1971
23 c 34 s 1, 1909 c 249 s 308, and 1883 p 67 s 1 are each repealed.

--- END ---